FOR MYSORE STATE

REVENUE 1950 (195) Department.

Ms. SERIES.

G.O. NO. 423

Dated 13-2-1950

[Despatch Abstract.]

Land - Applicability of the provisions of the Land Encroachment Act to take possession for violation of conditions of alienation - Instructions - Issued.

Copy to Mysore Govt

ABSTRACT.

Land - Applicability of the provisions of the Land Encroachment Act to take possession for violation of conditions of alienation Instructions - Issued.

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Revenue Department.

G.O.Ms.No.423. Dated the 17th February 1950.
Read the following:-

G.O.3172,Revenue,dated the 14th December 1949.

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ORDER:-

It has been suggested to the Government that as condition (2) to B.S.O. 24 (6) (i) is restricted in its scope, a condition as indicated below will be safer, as it will prevent resumption by Government being challanged by the alience on the ground that there has been no contravention in fact of the condition, and that consequently, the matter should be decided by a Civil Court.

"The land shall be resumed if in the opinion of the Government, any of the conditions of the grant has been controvened. If any question arises whether there was a contravention of any of the conditions of the grant or not, it shall be referred to the Government and their decision shall be final".

The Government accept the suggestion.

2. The Board of Revenue is requested to issue necessary amendments to condition (2) in B.S.O. 24(6)(i) with reference to the orders in para(1) above.

(By Order of His Excellency the Governor)

K.M.Unnithan.
Secretary to Government.

To The Board of Revenue (Land Revenue)
Copy for Stock file.

/True copy/

K.N.Khanna
Superintendent.

nr.4/6

Compared by.
1., M.R.Sarma 6/6.
12, V. Ramadoss

Extract of notes from file-C.No.48545 F/49,Revenue Dept.

**

Land - Assignment (Bellary District) - Adoni taluk - Parvathapuram village - S.Nos.162-B - The Rayalaseema Mills,Ltd., Adoni - Request of.

**

Legal Department.

There is no legal objection to imposing a condition in a Crown grant that it will be resumed if, in the opinion of the Government, any of the conditions of the grant has been contravened. The condition may also provide that if any question arises whether there was a contravention of any of the condition of the grant or not, it should be referred to the Government and that their decision should be final.

2. In another file, the question was examined whether the Land Encroachment Act can be invoked for evicting the occupant when the period of his lease has expired. It has been suggested in that note that though the existing practice of invoking the Land Encroachment Act in such cases may not be justificble from the point of strict law, yet, as the practice has not been challenged all these years, we may continue to follow it until it is specifically challenged by someone. When Crown Grant is ordered to be resumed for a violation of its conditions, it virtually amounts to an order terminating the grant and the position of the grantee is similar to that of a person occupying land after the period of his tenancy has expired. The machinery of the Land Encroachment Act may be invoked to evict the grantee in the same way as that Act is proposed to be invoked in the case of a lessee holding on to a time empired lease.

3. Here again, it is very desirable to make the position clear by a suitable amendment of the Land Encroachment Act.

K.V.R. 16-9-1949.

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Legal Department.

Condition 12 in Appendix V at page 176 of B.S.O., volume I is more restricted in scope than that suggested by this Department. at 'X' ~~on page 2 ante~~ above. The words "in the opinion of the Government" are not to be found in condition 12. It would be safer if this expression as well as the second sentence in paragraph 1 of this Department's note above are inserted in the condition as it will prevent resumption by Government being challanged by assignee on the ground that there has been no contravention in fact of the condition, and that consequently the matter should be decided by a Civil Court.

K.V.R. 8-9-1949.

Revenue Department.

1.Grant of land at the disposal of the Government for temporary occupation for agricultural purposes - B.S.O. 15-A

The grant of land under this standing order should be embodied in an order in the form given in Appendix X of B.S.O.Volume I,with suitable modifications. Attention is invited to the condition 11(d) of the form of order of grant. In that condition it is specifically stated that in the event of the infringement of or failure to observe any of the conditions, the Govennment shall be at liberty to cancel the grant and re-enter on the land and the whole land shall thereupon vest absolutely in the Government. The words "in the opinion of the Government " are not found in condition 11 (d) The form of of order of grant does not also contain the condition suggested by Legal at 'D' on page 1 above. But attention is invited to condition (25) of the form of order of grant. That condition provides that if any ~~of the form of order of grant~~ disputes or difference shall at any time hereafter arise between the Government or

their officers on the one part and the grantee as to the rights, duties or liabilities of either party in respect of any matter or thing relating to or arising out of the grant or the construction or the meaning of all or any of the provisions of the order of grant, the said dispute or difference shall be referred for settlement to the arbitration of the Collector of the district and his decision shall be final. The object of the proposed new conditions at 'X' on page 1 above is already provided for in condition (25) of the form of order of grant. In view of this, it does not appear necessary to insist the conditionat 'X' on page 2 ante in the form of order of grant of land for temporary cultivation.

8. Alienation - B.S.O.24:-

The usual conditions of alienation of state lands will be found in B.S.O.24.-6(1) Condition (2) lays down that the Government may resume the land wholly or in part with any buildings thereon, in the event of the infringement of any of the conditions of the grant. The words "in the opinion of the Government" are not used in this condition. But the words are found in condition (3). As suggested by Legal Department, the words "in the opinion of the Government" may be inserted in condition(2).

The conditions mentioned at 'D' on page 2 above is not found among the conditions provided for in B.S.O. 24(6)(i) and it may therefore be inserted in the existing condition(2). For orders.

9. The draft order below relate to the inclusion of a new condition in the list of general conditions of assignment and it is for approval. With reference to paras 7 and 8 above, necessary extracts from the file will be given to 'A' section for separate section to examine if the conditions of lease or alienation require modifi-

The draft order which explains the case may be approved.

(Action will be taken in a separate file to amend alienation conditions).

Rev. G.O. 74698 A/50
24-1-50

V.S.R.
22.10.1949. P.A.
29.11.1949.
V.K.R.
27.11.1949.

H.S.R.
8.12.1949.

K.M.M.
11-12-1949.

To A.S.

Please see the extract of notes on pp.1-2 above.

2. In the circumstances explained in para 7 of this Departments note extracted on pp.1-2 above it is considered that no amendment be B.S.O.15-A is necessary on the lines suggested by Legal at 'X' on p.1 ante. It is however proposed to amend condition (2) of B.S.O. 24 (6) (1) A draft order is submitted for approval. Legal may see before issue.

Legal G.O.Ms.No.
1229/50-1
9.2.50.

Legal Department.

Seen in Legal.

Rev.Department.

The Draft order may now issue.

REVENUE DEPARTMENT.

Subject.

Land - Alienation - Applicability of the Provisions of the Land Encroachment Act to take possession for violation of conditions of alienation B.S.O. 24(6)(1) (2) Amendment Issued.

Station:Madras. Ref.Misc.711. Dated 16-6-50.

From

Sri A.F.Mascarenhas, Secretary, Board of Revenue, Madras.
Sri W.R.S.Sattianathan, I.C.S. Commissioner of Land Revenue.

p.t.o.

Copy of B. P. Misc. 711 dt 6.6.50

Read: G.O.No.Mis.423 dated 17-2-50.

RESOLUTION:-

The following amendment will be issued to condition(2) Be B.S.O. (24 (6) (1)

Page 99 of B.S.O.24:-

For the first sentence of condition (2) to B.S.O. 24 (6) (1) substitute the following:-

The Land shall be resumed wholly or in part with any buildings thereon if in the opinion of the Government any of the conditions of the grant has been contravened. If any question arises whether there was a contravention of any of the conditions of the grant or not it shall be referred to the Government and their decision shall be final.

For Secretary.

To
All Collectors.
The Secretary to Government, Revenue Department.
Copy to B.S.O. Revision section.
Copy to Stock file (2) copies.

Rev.Dept.

Lodged (may be stitched with the G.O.at (T).

True Extracts
K.V. Rhavelly
Superintendent.

Compared by -
(1) K. R. Sarma 6/6.
2 V. Ramadoss